

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

CLIFFORD CARROLL,

*Plaintiff,*

v.

Civil Action No.:

FEDEX CUSTOM CRITICAL, INC.,  
ABC CORPS. #1-4, AND JOHN DOES  
#1-4,

*Defendants.*

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**DEFENDANT, FEDEX CUSTOM CRITICAL, INC.'S, ANSWER TO THE  
PLAINTIFF'S COMPLAINT AND DEMAND FOR TRIAL BY JURY**

COMES NOW FedEx Custom Critical, Inc. (hereinafter referred to as "Defendant" or "Defendant FedEx"), a named Defendant in the above-styled civil action, by and through its attorneys of record, and files its Answer to the Plaintiff's Complaint for Damages (hereinafter "Plaintiff's Complaint") and states as follows:

**FIRST DEFENSE**

The Plaintiff's Complaint fails to state a claim against this Defendant upon which relief can be granted.

**SECOND DEFENSE**

The Plaintiff's Complaint fails to state a claim for special damages with the requisite specificity pursuant to Rule 9(g) of the Federal Rules of Civil Procedure

as if set out fully herein and on the basis of such affirmative defenses the Plaintiff's Complaint should be dismissed.

### **THIRD DEFENSE**

This Defendant incorporates hereby by reference all affirmative defenses contained in Rule 8(c) of the Federal Rules of Civil Procedure as if set out fully herein and on the basis of such affirmative defenses the Plaintiff's Complaint should be dismissed.

### **FOURTH DEFENSE**

This Defendant incorporates hereby by reference all affirmative defenses contained in Rule 12(b) of the Federal Rules of Civil Procedure as if set out fully herein and on the basis of such affirmative defenses the Plaintiffs' Complaint should be dismissed.

### **FIFTH DEFENSE**

Responding to the specific allegations contained within the Plaintiff's Complaint, this Defendant states as follows:

### **PARTIES AND JURISDICTION**

1.

This Defendant is without sufficient information or knowledge to admit or deny the specific allegations contained in Paragraph No. 1 of the Plaintiff's

Complaint. Therefore, these allegations are denied.

2.

This Defendant admits the allegations contained in Paragraph No. 2 of the Plaintiff's Complaint, but denies that it is liable to the Plaintiff for the damages sought in the Plaintiff's Complaint.

3.

This Defendant states that no response is required of this Defendant in response to the allegations contained in Paragraph No. 3 of the Plaintiff's Complaint, but denies that it is liable to the Plaintiff for the damages sought in the Plaintiff's Complaint.

4.

This Defendant states that no response is required of this Defendant in response to the allegations contained in Paragraph No. 4 of the Plaintiff's Complaint, but denies that it is liable to the Plaintiff for the damages sought in the Plaintiff's Complaint.

5.

This Defendant denies the allegations contained in Paragraph No. 5 of the Plaintiff's Complaint.

6.

This Defendant denies the allegations contained in Paragraph No. 6 of the Plaintiff's Complaint.

**COUNT I : ORDINARY NEGLIGENCE**

7.

In response to Paragraph No. 7 of the Plaintiff's Complaint this Defendant incorporates herein by reference its responses to Paragraphs Nos. 1-6 of the Plaintiff's Complaint as if set out fully herein.

8.

This Defendant is without sufficient information or knowledge to admit or deny the specific allegations contained in Paragraph No. 8 of the Plaintiff's Complaint. Therefore, these allegations are denied.

9.

This Defendant is without sufficient information or knowledge to admit or deny the specific allegations contained in Paragraph No. 9 of the Plaintiff's Complaint. Therefore, these allegations are denied.

10.

This Defendant denies the allegations contained in Paragraph No. 10 of the Plaintiff's Complaint as stated.

11.

This Defendant denies the allegations contained in Paragraph No. 11 of the Plaintiff's Complaint as stated.

12.

This Defendant denies the allegations contained in Paragraph No. 12 of the Plaintiff's Complaint as stated.

13.

This Defendant is without sufficient information or knowledge to admit or deny the specific allegations contained in Paragraph No. 13 of the Plaintiff's Complaint, including the nature and extent of any injuries sustained by the Plaintiff. Therefore, these allegations are denied.

14.

This Defendant is without sufficient information or knowledge to admit or deny the specific allegations contained in Paragraph No. 14 of the Plaintiff's Complaint. Therefore, these allegations are denied.

15.

This Defendant is without sufficient information or knowledge to admit or deny the specific allegations contained in Paragraph No. 15 of the Plaintiff's Complaint. Therefore, these allegations are denied.

16.

This Defendant is without sufficient information or knowledge to admit or deny the specific allegations contained in Paragraph No. 16 of the Plaintiff's Complaint. Therefore, these allegations are denied.

17.

This Defendant denies the allegations contained in Paragraph No. 17 of the Plaintiff's Complaint as stated.

18.

This Defendant denies the allegations contained in Paragraph No. 18 of the Plaintiff's Complaint as stated.

19.

This Defendant denies the allegations contained in Paragraph No. 19 of the Plaintiff's Complaint as stated.

20.

This Defendant denies the allegations contained in Paragraph No. 20 of the Plaintiff's Complaint as stated.

21.

This Defendant denies the allegations contained in Paragraph No. 21 of the Plaintiff's Complaint as stated.

**COUNT III [sic]: NEGLIGENCE *PER SE***

22.

In response to Paragraph No. 22 of the Plaintiff's Complaint this Defendant incorporates herein by reference its responses to Paragraphs Nos. 1-21 of the Plaintiff's Complaint as if set out fully herein.

23.

This Defendant denies the allegations contained in Paragraph No. 23 of the Plaintiff's Complaint.

**DAMAGES**

24.

This Defendant denies the allegations contained in Paragraph No. 24 of the Plaintiff's Complaint. By way of further response, this Defendant states that it is without sufficient information or knowledge to admit or deny the nature and extent of any injuries sustained by the Plaintiff. Therefore, these allegations are also denied.

25.

Any allegations or prayers relief contained in the Plaintiff's Complaint and not specifically responded to herein are denied.

WHEREFORE, having fully answered the Plaintiff's Complaint, this

Defendant prays for the following relief:

- a) That the Plaintiff's Complaint against this Defendant be dismissed with prejudice;
- b) That all costs associated with the Plaintiff's Complaint as they pertain to this Defendant be assessed against the Plaintiff;
- c) That this Defendant receives a trial by a struck jury; and
- d) That the Trial Court award this Defendant any further relief it deems just and proper.

This the 26<sup>th</sup> day of April, 2023.

Shires, Peake & Gottlieb, LLC

/s/ Kevin T. Shires

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing document upon all parties to this matter by:

      x       Electronically filing this document with CM/ECF which sends notice via that system to all parties and counsel pursuant to O.C.G.A. § 9-11-5(F) and/or U.S.C.R. 36.16(E)

      x       Electronically serving this document via email pursuant to O.C.G.A. § 9-11-5 (F) and/or U.S.C.R. 36.16(E) as follows:

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This 26<sup>th</sup> day of April, 2023.

Shires, Peake & Gottlieb, LLC

/s/ Kevin T. Shires

Kevin T. Shires

State Bar No.: 643290

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